

## PROTECTION OF TRADEMARKS IN CHINA

*Exchange of notes at Peking November 27, 1905; related note of January 22, 1906*

*Entered into force November 27, 1905*

*Made obsolete by U.S. relinquishment of extraterritorial rights in China, in accordance with terms of treaty of January 11, 1943*<sup>1</sup>

I Malloy 111; Treaty Series 480

*The American Minister at Peking to the Belgian Chargé d'Affaires*

*November 27, 1905*

MR. CHARGÉ D'AFFAIRES AND DEAR COLLEAGUE: The Government of the United States being desirous of reaching an understanding with the Government of Belgium for the reciprocal protection against infringement in China by citizens of our respective nations of trade marks duly registered in the United States and Belgium, I am authorized by the Secretary of State of the United States to inform you that effectual provision exists in American Consular Courts in China for the trial and punishment<sup>2</sup> of all persons subject to the jurisdiction of the United States who may be charged with and found guilty of infringing in any way trade marks of persons subject to the jurisdiction of Belgium which have been duly registered in the United States.

I beg that you will kindly inform me whether American citizens are entitled to the same legal remedies in the Consular Courts of Belgium in China as regards the protection from infringement of their trade marks duly registered in Belgium.

I have the honor to be, my dear Colleague, Your obedient servant,

W. W. ROCKHILL

MR. DE PRELLE DE LA NIEPPE,  
*etc., etc., etc.*

---

*The Belgian Chargé d'Affaires to the American Minister*

[TRANSLATION]

*November 27, 1905*

MR. MINISTER: I have had the honor of receiving Your Excellency's note of this date regarding the mutual protection of Belgian and American trade marks in China.

---

<sup>1</sup> TS 984, *post*, vol. 6, p. 739, CHINA.

<sup>2</sup> See related note, p. 515.

It is stated in this communication that the Government of the United States of America has given such instructions to the American Consular Courts as are sufficient to insure the legal protection of trade marks the property of Belgian subjects which have been duly registered in the United States.

While acknowledging to Your Excellency the receipt of this communication I have the honor to inform you that the Royal Government in like manner guarantees in the Chinese Empire the protection of American trade marks duly registered in Belgium, if counterfeited by Belgian subjects.

The Royal Legation and the Consulates, Vice-Consulates and Consular Agencies in China are competent to take cognizance of actions brought before them in the matter.

I have informed our Consular representatives in China of the agreement arrived at between Belgium and the United States of America which is set forth by this interchange of correspondence between us.

I avail myself of this occasion to present to Your Excellency the assurance of my high esteem.

EDM. DE PRELLE

His Excellency W. W. ROCKHILL,  
*etc., etc., etc.*

---

*The American Minister to the Belgian Minister*

PEKING, January 22, 1906

MR. MINISTER AND DEAR COLLEAGUE: In connection with the notes which I had the honor to exchange with Your Excellency on November 27, 1905, looking to the reciprocal protection from infringement by our respective nationals in China of trade marks belonging to them I duly transmitted copies of the same to my Government.

In reply the Secretary of State has called to my attention, as possibly misleading, the use made in my note to you of the word "punishment" by our Consular Courts in China of American citizens who may have infringed in China trade marks the property of persons under the jurisdiction of Belgium.

In view of the fact that there is no statute in the United States making the infringement, counterfeiting, etc. of a trade mark a criminal offense, and that effectual provision exists by a civil action for damages by the owner of a trade mark, my Government is of the opinion that the word "punishment" should be understood to refer to a civil action only, and not to a criminal procedure, as might be inferred from the use of the word in question without the present explanation added thereto.

I beg leave to call Your Excellency's attention to the above provision of our law, so that nothing in my note of November 27, last, may be construed as conflicting therewith.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

W. W. ROCKHILL

To His Excellency

EDMOND DE PRELLE DE LA NIEPPE,

*etc., etc., etc.*